



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

JOHN BEN SHEPPERD
ATTORNEY GENERAL

April 19, 1955

Hon. Max C. Smith, Chairman,
House Appropriations Committee,

Opinion No. MS-201

Hon. Crawford C. Martin, Chairman,
Senate Finance Committee,
54th Legislature,
Austin, Texas.

Re: Appropriation from State
Building Fund for repair
and improvement of State
buildings by Board of
Control or by State Build-
ing Commission.

Gentlemen:

You have requested an opinion of this office on the following questions:

"Does the Legislature have the authority under Article III, Section 51-b, as amended in the general election last November, to appropriate out of the State Building Fund for modernizing, repairing and improving the Capitol and State Office buildings?

"If you find affirmatively on the above question, must such appropriations be made only to the State Building Commission or may they be made to the State Board of Control for such purposes?"

Section 51-b of Article III of the Constitution of Texas creates the State Building Commission and establishes the State Building Fund. Subdivisions (b) and (c) provide in part as follows:

... "The State Building Fund shall be expended by the Commission upon appropriation by the Legislature for the uses and purposes set forth in subdivision (c) hereof.

"(c) Under such terms and conditions as are now or may be hereafter provided by law, the Commission may acquire necessary real and personal

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property, salvage and dispose of property unsuitable for State purposes, modernize, remodel, build and equip buildings for State purposes, and negotiate and make contracts necessary to carry out and effectuate the purposes herein mentioned."

Item 69 of Article III of House Bill 140, referred to in your letter, provides:

"Repairs and improvements to Capitol and State Office buildings and grounds, equipment, materials and labor."

Since the constitutional provision above quoted creates a State Building Commission, establishes the State Building fund and provides that the State Building fund shall be expended by the Commission upon appropriation by the Legislature, it is our opinion that the State Building fund cannot be appropriated to the State Board of Control.

The constitution limits the expenditure, insofar as it relates to your question, to the following purposes: "modernize, remodel, build and equip buildings for State purposes". Item 69 of the general appropriation act provides for "repairs and improvements to State buildings". Repairs and improvements are not synonymous with the words modernize, remodel and build. 36 Words and Phrases, Permanent Edition, Repairs 946-970.

It is, therefore, our opinion that the expenditure of Item 69 must be limited to repairs, improvements, equipment, materials and labor that would constitute modernization, remodeling, building and equipping buildings for State purposes and could not be expended for ordinary maintenance, repairs and improvements.

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You are, therefore, advised that the State Building fund cannot be appropriated to the State Board of Control and cannot be used for ordinary maintenance, repairs and improvements that do not constitute modernization, remodeling, building or equipping State buildings.

APPROVED:

Yours very truly,

J. C. Davis, Jr.,
County Affairs Division

JOHN BEN SHEPPERD
ATTORNEY GENERAL OF TEXAS

Enos T. Jones,
Reviewer

By *John Reeves*
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JR:zt